

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SEP 27 2016

UNITED STATES OF AMERICA	§	BY
	§	DEPUTY _____
v.	§	No. 1:16-CR- 75
(1) KTX LTD,	§	(Judge <u>Crone</u> → <u>Giblin</u>)
formerly KMTEX LTD,	§	
(2) KTX PROPERTIES, INC.,	§	
formerly KMTEX PROPERTIES, INC.,	§	
(3) CROSBY LP,	§	
formerly KMCO LP, and	§	
(4) RAMSEY PROPERTIES LP,	§	
formerly KMCO PROPERTIES LP	§	

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

Introduction

At all times relevant to this Information:

1. The Clean Air Act ("CAA"), Title 42, United States Code ("U.S.C."), Sections 7401 et seq., was enacted by Congress to protect and enhance the quality of the Nation's resources so as to promote the public health and welfare.

2. The United States Environmental Protection Agency ("EPA") is responsible for administering and enforcing the CAA, including (1) publishing regulations and proscribing procedures and methods for determining compliance and for monitoring and analysis of regulated air pollutants, 42 U.S.C. § 7661c; and (2) establishing emission standards and methods for sources of hazardous air pollutants, 42 U.S.C. § 7412.

3. KMCO Port Arthur, dba KMTEX ("Port Arthur Facility") was a chemical and petroleum processing facility located at 2450 South Gulfway Drive, Port Arthur, Texas, 77641, within the Eastern District of Texas. The Port Arthur Facility produced various types of petroleum products through the mixing, heat treatment, and distillation of various forms of feed stocks.

4. Until on or about June 30, 2012, the Port Arthur Facility was owned and operated by defendants (1) KTX LTD, formerly known as KMTEX LTD (a Texas limited partnership) and (2) KTX PROPERTIES, INC., formerly known as KMTEX PROPERTIES, INC (a Texas corporation).

5. Defendants (3) CROSBY LP, formerly known as KMCO LP and (4) RAMSEY PROPERTIES LP, formerly known KMCO Properties LP, were Texas limited partnerships that owned and operated an organic chemical toll processing plant located at 16503 Ramsey Road, Crosby, Texas 77023 (Ramsey Road Plant) until June 30, 2012.

Count One

Violation: 42 U.S.C. § 7413(c)(4)
(Negligent Release of a Hazardous Air
Pollutant)

6. The United States Attorney incorporates paragraphs 1 through 4 of the Information and further charges.

7. On or about March 31, 2011, in the Eastern District of Texas, the defendants, (1) KTX LTD, formerly known as KMTEX LTD and (2) KTX PROPERTIES, INC., formerly known as KMTEX Properties, Inc., as owners and
Information – KTX LTD, KTX PROPERTIES, INC., CROSBY LP, AND RAMSEY PROPERTIES LP
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operators of a stationary source acting through their employees, negligently released into the ambient air hazardous air pollutants from Tank 223 at their facility located at 2450 South Gulfway Drive, Port Arthur, Texas, 77641, and at the time negligently placed another person in imminent danger of death or serious bodily injury.

In violation of 42 U.S.C. § 7413(c)(4).

Count Two

Violation: 42 U.S.C. § 7413(c)(1)
(Knowing Violation of a Clean Air Act
Title V Permit)

8. The United States Attorney incorporates paragraphs 1, 2, and 5 of the Information and further charges.

9. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes a federal operating permit program for certain stationary sources of air pollutants, including “major sources.” The purpose of Title V is to ensure that all applicable requirements that a designated stationary source is subject to under the CAA are included in one permit. Pursuant to 42 U.S.C. § 7661c, and Title 40, Code of Federal Regulations (“C.F.R.”), Section 70.6, each Title V permit must include, at a minimum, enforceable emissions limits and standards, a schedule of compliance, and a requirement that the permittee submit to the permitting authority the results of any required monitoring at least every six months.

10. Pursuant to 42 U.S.C. § 7661a and 40 C.F.R. Part 70, each state may apply to the EPA for authority to administer a Title V permit program within its borders. The State of Texas received final approval from the EPA on November 30, 2001, and is fully

authorized to issue Title V permits. The Texas Commission on Environmental Quality (TCEQ) is the agency tasked to administer the approved Title V permit program within the state.

11. The Ramsey Road Plant was designated by TCEQ as a “major source” of volatile organic compounds (VOCs) and Nitrogen Oxide (NO_x), requiring the defendants to obtain a Title V Federal Operating Permit (“FOP”). VOC and NO_x emissions play a significant role in the production of ground-level ozone, commonly referred to as “smog.” Harris County, Texas, which includes the city of Crosby, is classified as a severe nonattainment area for ozone pollution levels.

12. FOP No. O-1441 was first issued to the defendants in January 2004 and renewed in 2009 and 2014. FOP No. O-1441 incorporated and enforced the terms and conditions of all New Source Review (NSR) authorizations and permits previously issued to the defendants, including Air Quality Permit No. 9383. Among the incorporated special conditions of defendant’s Air Quality Permit 9383 was the requirement to conduct a leak detection and repair (LDAR) program in accordance with 40 C.F.R. Subpart VV, for the purpose of limiting fugitive emissions of VOCs from processing components, such as valves, flanges and pumps, at the Ramsey Road Plant.

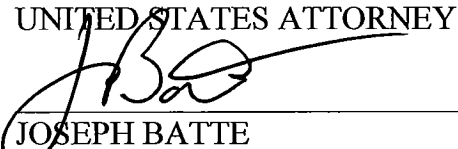
13. Under the LDAR requirements incorporated in FOP No. O-1441, the defendants were to identify, tag and repair any processing component found to be leaking 500 parts per million (ppm) or more of VOCs. The monitoring of processing components for VOC leaks was to be performed in accordance with the procedures set forth in 40 C.F.R. Part 60, Appendix A, commonly referred to as “EPA Method 21,”

which included technical specifications for the gas meter to be used and instructions for how to use it to effectively detect fugitive emissions. Records of the monitoring date, test method, instrument readings, component repair results, corrective actions taken and name of persons performing the monitoring and/or repair were required to be made and maintained at the Ramsey Road Plant. The defendants were further required to make, maintain and file semi-annual reports with TCEQ and EPA, identifying the processing components found to be leaking the threshold amount of VOCs and the date when they were subsequently repaired (LDAR reports).

14. From in or about August 2008, and continuing at least until in or about June 2012, in the Houston Division of the Southern District of Texas, defendants (3) CROSBY LP, (formerly known as KMCO LP) and (4) RAMSEY PROPERTIES LP (formerly known KMCO Properties LP), acting through their agents and employees on behalf and for the benefit of the defendants, did knowingly violate a requirement of FOP No. O-1441, issued under Title V of the CAA, in that the defendants failed to perform any leak detection monitoring of facility processing components for fugitive VOC emissions.

In violation of 42 U.S.C. § 7413(c)(1).

JOHN M. BALES
UNITED STATES ATTORNEY



JOSEPH BATTE
Assistant U.S. Attorney
Beaumont, Texas
Telephone: (409) 981-7906
Joe.Batte@usdoj.gov

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FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

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	§	No. 1:16-CR- 75
v.	§	
	§	(Judge _____)
(1) KTX LTD,	§	
formerly KMTEX LTD,	§	
(2) KTX PROPERTIES, INC.,	§	
formerly KMTEX PROPERTIES, INC,	§	
(3) CROSBY LP,	§	
formerly KMCO LP, and	§	
(4) RAMSEY PROPERTIES LP,	§	
formerly KMCO PROPERTIES, LP	§	

NOTICE OF PENALTY

Count One

(1) KTX LTD and (2) KTX PROPERTIES, INC.

VIOLATION: 42 U.S.C. § 7413(c)(4)
(Negligent Release of a Hazardous Air Pollutant)

PENALTY: A fine of not more than \$500,000 or twice any
pecuniary gain to the defendant or loss to the victim(s);
a term of probation not to exceed 5 years.

SPECIAL ASSESSMENT: \$125.00

Count Two

(3) CROSBY LP and (4) RAMSEY PROPERTIES LP

VIOLATION: 42 U.S.C. § 7413(c)(1)
(Knowing Violation of a CAA Title V Permit)

PENALTY: A fine of not more than \$500,000 or twice any
pecuniary gain to the defendant or loss to the victim(s);
a term of probation not to exceed 5 years.

SPECIAL ASSESSMENT: \$400.00